

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ANITA MARIE HELTON,

Plaintiff,

Case No. 14-cv-14931

v.

HONORABLE VICTORIA A. ROBERTS

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION (ECF No. 24)
GRANTING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT (ECF No. 20) and
DENYING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT (ECF No. 17)

I. INTRODUCTION

Plaintiff Anita Marie Helton ("Helton") brings this action pursuant to 42 U.S.C. 405(g) to appeal the denial of Social Security Disability Insurance Benefits made by the Commissioner of Social Security (the "Commissioner"). On October 31, 2014, the Appeals Council denied Helton's request for review of the decision issued by the Administrative Law Judge ("ALJ"). The ALJ's September 9, 2013 decision stands as the Commissioner's final decision.

The parties' cross-motions for summary judgment were referred to Magistrate Judge R. Steven Whalen for Report and Recommendation ("R&R"). Magistrate Judge Whalen recommends that the Court deny Helton's motion for summary judgment and grant the Commissioner's. Helton filed objections to the R&R, which are fully briefed.

The Court **ADOPTS** the R&R. Plaintiff's motion for summary judgment is **DENIED**; Defendants motion for summary judgment is **GRANTED**.

II. STANDARD OF REVIEW

After proper objections are made, the Court reviews *de novo* a Magistrate Judge's Report and Recommendation on a dispositive motion. 28 U.S.C. § 636(b)(1); F.R. Civ. P. 72(b)(3). A court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. *Id.* A district court need not conduct *de novo* review where the objections are "[f]rivolous, conclusive or general." *Mira v. Marshall*, 806 F.2d 636, 637 (6th Cir.1986) (citation omitted); see also *Rice v. Comm'r of Soc. Sec.*, 169 F. App'x 452, 453-54 (6th Cir. 2006) ("issues adverted to in a perfunctory manner, unaccompanied by some effort at developed argumentation, are deemed waived.") (quoting *McPherson v. Kelsey*, 125 F.3d 989, 995-96 (6th Cir. 1997)). After completing a *de novo* review, there is no requirement that the district court articulate all of the reasons it rejects a party's objections. *Tuggle v. Seabold*, 806 F.2d 87, 93 (6th Cir. 1986); *Dickey-Williams v. Comm'r of Soc. Sec.*, 975 F. Supp. 2d 792, 798 (E.D. Mich. 2013).

III. DISCUSSION

Helton makes two objections. First, she says that the ALJ effectively reversed the treating physician rule by stating that he was free to disregard the treating physician's opinions if there was substantial evidence supporting a different opinion. ECF No. 25 at 2, citing Tr. at 18 (ECF No. 11). She says that this constitutes a failure to follow agency rules and regulations, and, as a result, denotes a lack of substantial evidence, even when the conclusion of the ALJ may be justified based upon the record. ECF No. 25 at 3.

Second, Helton says that the R&R erroneously excused the ALJ's failure to provide good reasons for discounting the weight accorded the treating physician's opinions. ECF No. 25 at 4. In so doing, she objects to both the ALJ's and Magistrate Judge Whalen's characterization of certain ailments as being "mild." *Id.* at 4-6. She says that these erroneous conclusions caused the ALJ to misapply the treating physician rule, and ultimately deny an award of disability benefits. *Id.* at 6.

The Commissioner argues (1) that, as a general matter, Helton does not state valid objections because they merely rehash her prior complaints with the ALJ's decision; and (2) that the dispute about the severity level of particular findings is immaterial because allegations that the ALJ cherry-picked the record are rarely successful, particularly when, as here, both the ALJ and Magistrate Judge Whalen accurately noted that the decision was supported by substantial evidence. ECF No. 26.

After conducting a *de novo* review of the cross motions for summary judgment, the R&R, Helton's objections, the Commissioner's Response, and the remainder of the record, the Court agrees with Magistrate Judge Whalen's conclusions. Magistrate Judge Whalen accurately lays out the facts and relevant portions of the administrative record. In considering the record, Magistrate Judge Whalen applies relevant case law and gives well reasoned explanations for his conclusion that the Commissioner's decision was supported by substantial evidence. Helton's objections are overruled.

IV. CONCLUSION

Accordingly, the Court **ADOPTS** Magistrate Judge Whalen's Report and Recommendation: the Commissioner's Motion for Summary Judgment is **GRANTED**;

Helton's Motion for Summary Judgment is **DENIED**. The decision of the Commissioner of Social Security is **AFFIRMED**. Judgment will enter in favor of Defendant.

IT IS ORDERED.

S/Victoria A. Roberts
Victoria A. Roberts
United States District Judge

Dated: March 31, 2016

The undersigned certifies that a copy of this document was served on the attorneys of record by electronic means or U.S. Mail on March 31, 2016.

s/Linda Vertriest
Deputy Clerk